

Executive
VENDORSUMMIT

The Big Squeeze: Contracting in the Cloud

Presented by
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The Cloud: What is it?

- **NIST Definition:** Cloud computing is a model for enabling ubiquitous, convenient, on-demand network access to a shared pool of configurable computing resources (e.g., networks, servers, storage, applications, and services) that can be rapidly provisioned and released with minimal management effort or service provider interaction.
- **Types of Services:**
 - Software-as-a-service (SaaS)
 - Platform-as-a-service (PaaS)
 - Infrastructure-as-a-service (IaaS)
- **Deployment Models:**
 - Private
 - Public
 - Community
 - Hybrid



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The Cloud: Why do you care?

- Growth in cloud use
- Push towards cloud by government and enterprise
- Your customers
- Efficiency and cost savings



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The Cloud: New Rules (or not)

- Shift in delivery and consumption of information technology
- Change from “technically managed” solution to “contractually managed”
- Allocating risks and uncertainties to third party
- Constantly evolving



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The Cloud: Minefields

- Data protection and security
- Privacy
- Intellectual property protection and preservation
- Multi-jurisdictional
- Contracting process and format



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The Cloud: Data Security & Privacy

- Myriad of U.S. federal and state laws
- EU Privacy Directive
- Commercial standards
- Accessibility
- Data breach obligations



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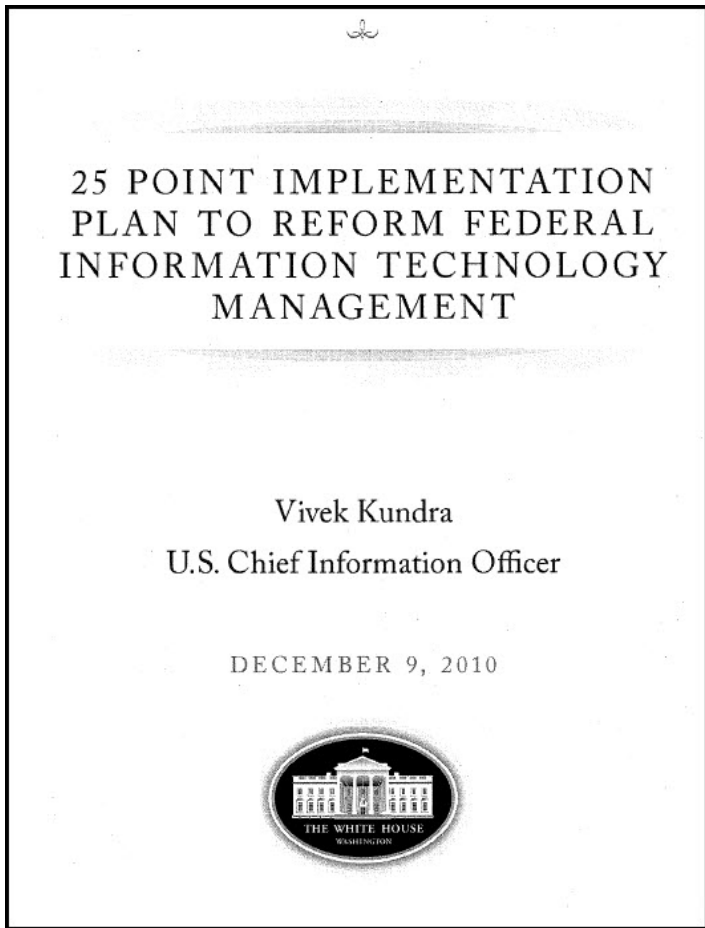
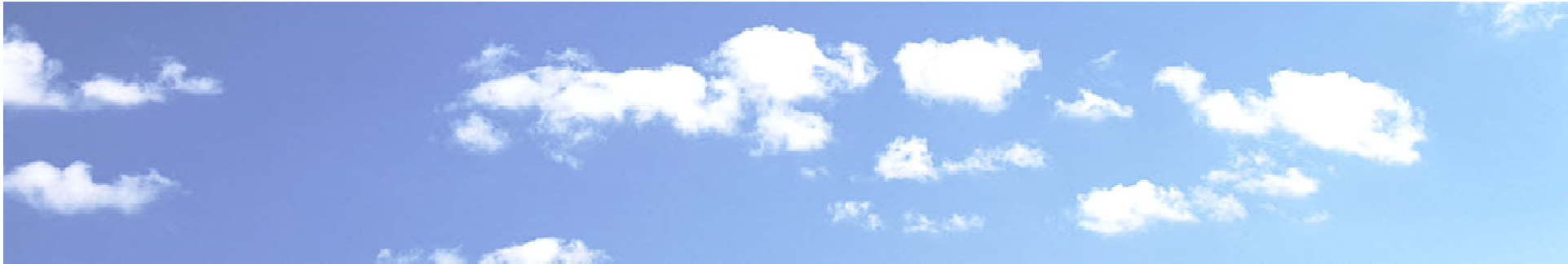


- Cloud First Policy



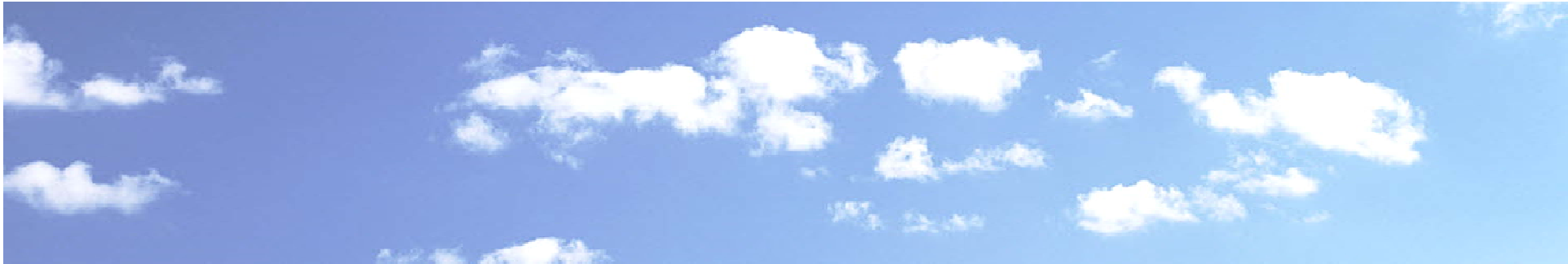
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Concept of Operations (CONOPS)



Version 1.0
February 7, 2012

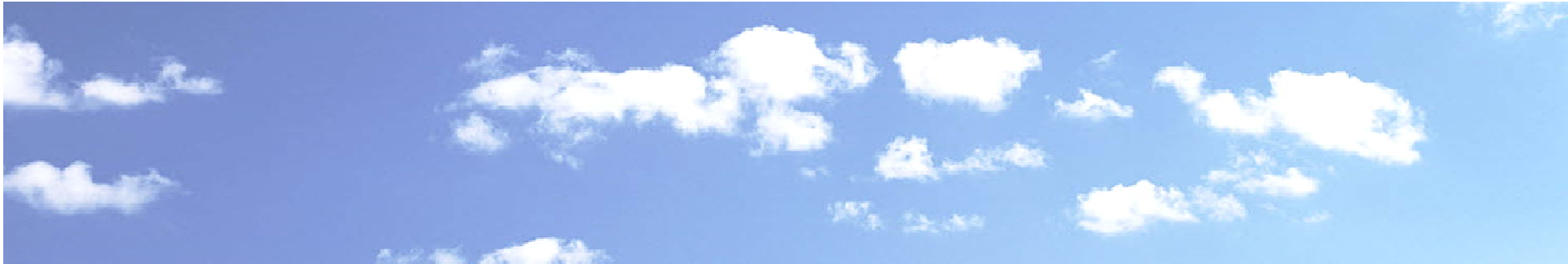



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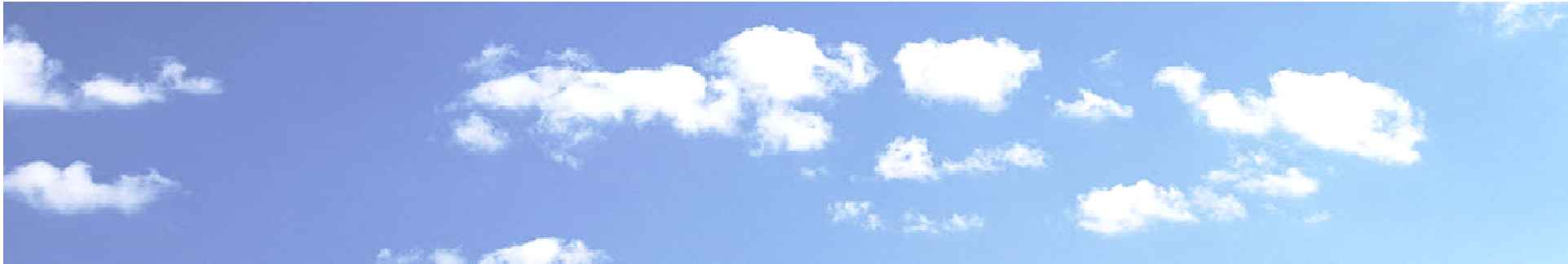


 <p>51496</p>	
<h2>Proposed Rules</h2>	
<p>Federal Register Vol. 77, No. 165 Friday, August 24, 2012</p>	
<p>This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.</p>	
<p>The public comment period for these regulations expired on August 15, 2012. The notice of proposed rulemaking and notice of public hearing instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. The public hearing scheduled for August 24, 2012, is cancelled.</p>	
<p>via the Federal eRulemaking portal by searching for "FAR Case 2011-020." Select the link "Submit a Comment" that corresponds with "FAR Case 2011-020." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "FAR Case 2011-020" on your attached document.</p> <ul style="list-style-type: none"> • Fax: 202-501-4067. • Mail: General Services Administration, Regulatory Secretariat (MVCB), ATTN: Hada Flowers, 1275 First Street NE., 7th Floor, Washington, DC 20417. <p>Instructions: Please submit comments only and cite FAR Case 2011-020, in all correspondence related to this case. All comments received will be posted without change to http://www.regulations.gov, including any personal and/or business confidential information provided.</p> <p>FOR FURTHER INFORMATION CONTACT: Ms. Patricia Corrigan, Procurement Analyst, at 202-508-1963, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202-501-4755. Please cite FAR Case 2011-020.</p> <p>SUPPLEMENTARY INFORMATION:</p> <p>I. Background</p> <p>The FAR presently does not specifically address the safeguarding of contractor information systems that contain or process information provided by or generated for the Government (other than public information). DoD published an Advance Notice of Proposed Rulemaking (ANPR) and notice of public meeting in the Federal Register at 75 FR 9563 on March 3, 2010, under Defense Federal Acquisition Regulation Supplement (DFARS) Case 2008-D028, Safeguarding Unclassified Information. The ANPR addressed basic and enhanced safeguarding procedures for the protection of DoD unclassified information. Basic protection measures are first-level information technology security measures used to deter unauthorized disclosure, loss, or compromise. The ANPR also addressed enhanced information protection measures that included requirements for encryption and network intrusion protection.</p> <p>Resulting public comments of the DFARS rule were considered in drafting a proposed FAR rule under FAR case</p>	
<p>DEPARTMENT OF THE TREASURY</p> <p>Internal Revenue Service</p> <p>26 CFR Part 1</p> <p>[REG-112738-12]</p> <p>RIN 1545-BK94</p> <p>Amendment of Prohibited Payment Option Under Single-Employer Defined Benefit Plan of Plan Sponsor in Bankruptcy; Hearing Cancellation</p> <p>AGENCY: Internal Revenue Service (IRS), Treasury.</p> <p>ACTION: Cancellation of notice of public hearing on proposed rulemaking.</p> <p>SUMMARY: This document cancels a public hearing on proposed regulations under section 411(d)(6) of the Internal Revenue Code. The proposed regulations provide guidance under the anti-cutback rules of section 411(d)(6) of the Internal Revenue Code, which generally prohibit plan amendments eliminating or reducing accrued benefits, early retirement benefits, retirement-type subsidies, and optional forms of benefit under qualified retirement plans.</p> <p>DATES: The public hearing, originally scheduled for August 24, 2012 at 10 a.m. is cancelled.</p> <p>FOR FURTHER INFORMATION CONTACT: Oluwafunmilayo Taylor of the Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration) at (202) 622-7180 (not a toll-free number).</p> <p>SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and a notice of public hearing that appeared in the Federal Register on Thursday, June 21, 2012 (77 FR 37346) announced that a public hearing was scheduled for August 24, 2012, at 10 a.m. in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW, Washington, DC. The subject of the public hearing was under the sections 411(d)(6) of the Internal Revenue Code.</p>	<p>DEPARTMENT OF DEFENSE</p> <p>GENERAL SERVICES ADMINISTRATION</p> <p>NATIONAL AERONAUTICS AND SPACE ADMINISTRATION</p> <p>48 CFR Parts 4, 7, 12, 42, and 52</p> <p>[FAR Case 2011-020; Docket 2011-0020; Sequence 1]</p> <p>RIN 9000-AM19</p> <p>Federal Acquisition Regulation; Basic Safeguarding of Contractor Information Systems</p> <p>AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).</p> <p>ACTION: Proposed rule.</p> <p>SUMMARY: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to add a new subpart and contract clause for the basic safeguarding of contractor information provided by or generated for the Government (other than public information) that will be resident on or transiting through contractor information systems.</p> <p>DATES: Interested parties should submit written comments to the Regulatory Secretariat at one of the addresses shown below on or before October 23, 2012 to be considered in the formation of the final rule.</p> <p>ADDRESSES: Submit comments in response to FAR Case 2011-020 by any of the following methods:</p> <ul style="list-style-type: none"> • Regulations.gov: http://www.regulations.gov. Submit comments



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Federal Financial Institutions Examination Council



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NOTE: This document, issued by the FFIEC Information Technology Subcommittee, is for information purposes only. July 10, 2012

Outsourced Cloud Computing

Summary

The Federal Financial Institution Examination Council Agencies consider *cloud computing* to be another form of outsourcing with the same basic risk characteristics and risk management requirements as traditional forms of outsourcing. This paper addresses the key risks of outsourced cloud computing identified in existing guidance.

Cloud computing is a relatively new term used to describe a variety of established business strategies, technologies, and processing methodologies. Although the term cloud computing is gaining in usage, there is no widely-accepted definition,¹ and numerous business strategies, technologies, and architectures are represented as cloud computing. In general, cloud computing is a migration from owned resources to shared resources in which client users receive information technology services, on demand, from third-party service providers via the Internet "cloud."

Cloud computing has several service and deployment models. The service models include the provision of infrastructure, computing platforms, and software as a service. The deployment models relate to how the cloud service is provided. These models include: a private cloud, which is operated solely for an organization; a community cloud, which is shared by several organizations; a public cloud, which is available to any paying customer; and a hybrid cloud, which is a composition of two or more clouds (private, community, or public).

Financial institutions that contemplate or use a cloud computing model in which all or part of the service is outsourced ("outsourced cloud computing") have to consider the fundamentals of risk and risk management defined in the *FFIEC Information Technology Examination Handbook* (IT Handbook), especially the Outsourcing Technology Services Booklet ("Outsourcing Booklet").

¹ In December 2011, the National Institute for Standards and Technology (NIST) issued Special Publication 800-144, "Guidelines on Security and Privacy in Public Cloud Computing." In this publication, NIST defines cloud computing "as a model for enabling convenient, on-demand network access to a shared pool of configurable computing resources (e.g., networks, servers, storage, applications, and services) that can be rapidly provisioned and released with minimal management effort or cloud provider interaction."

Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, National Credit Union Administration, Office of the Comptroller of the Currency, Consumer Financial Protection Bureau, State Liaison Committee

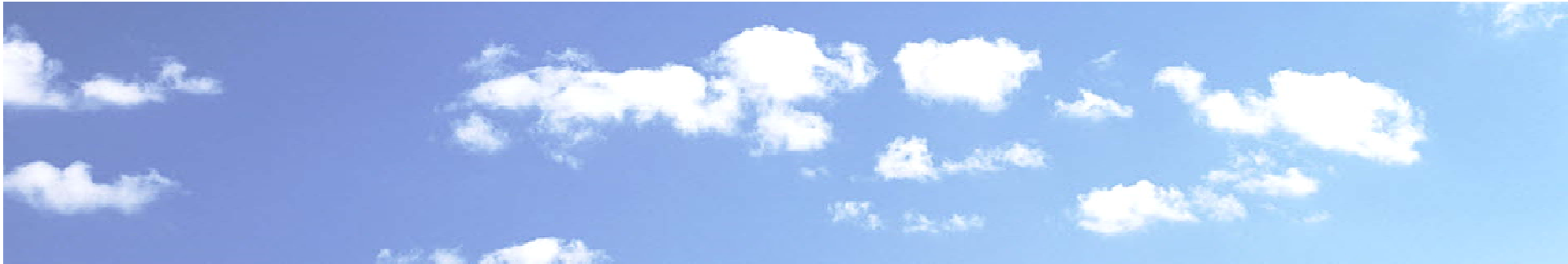


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NIST

National Institute of
Standards and Technology
U.S. Department of Commerce

Special Publication 800-144

Guidelines on Security and Privacy in Public Cloud Computing

Wayne Jansen
Timothy Grance

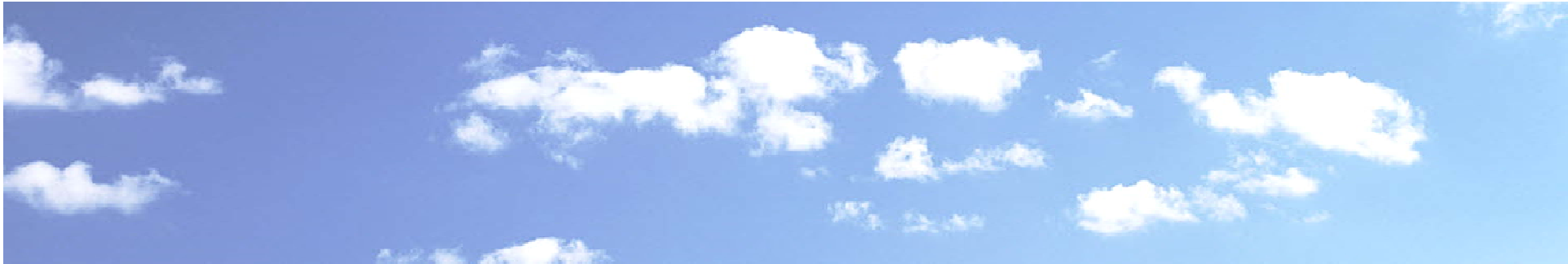


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Creating Effective Cloud Computing Contracts for the Federal Government

Best Practices for Acquiring IT as a Service

A joint publication of the



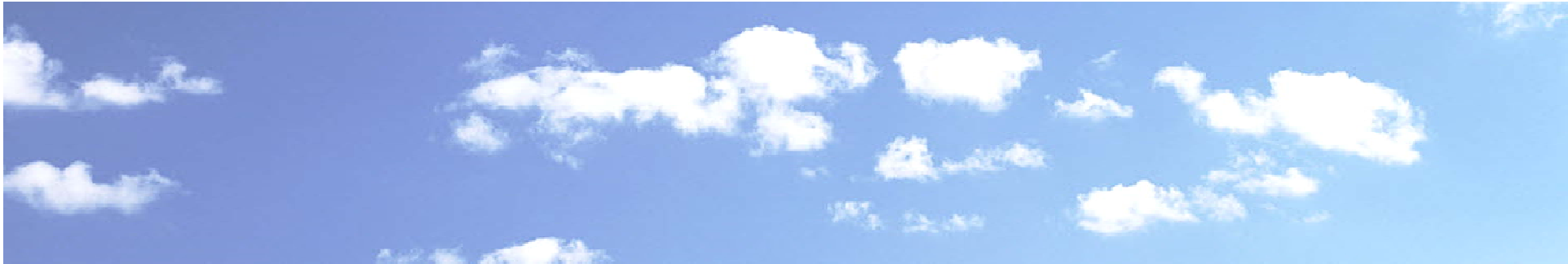
In coordination with the



Federal Cloud Compliance Committee

February 24, 2012





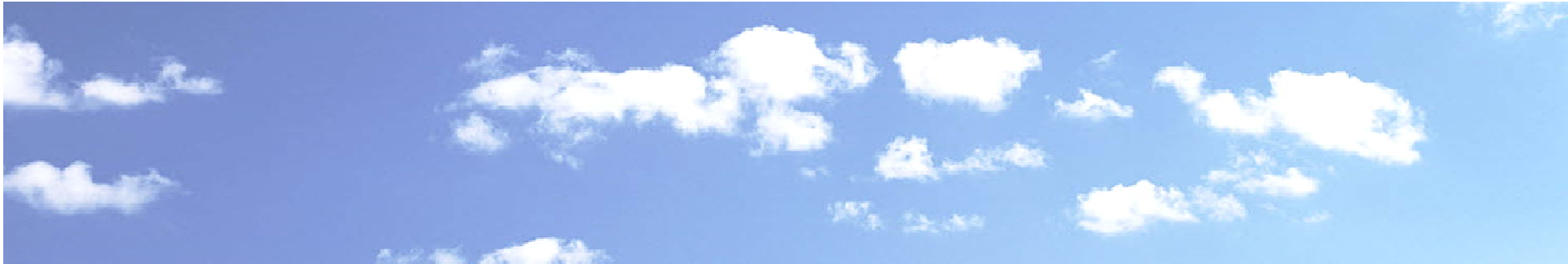
Standard: PCI Data Security Standard (PCI DSS)
Version: 2.0
Date: June 2011
Author: Virtualization Special Interest Group
PCI Security Standards Council

**Information Supplement:
PCI DSS Virtualization Guidelines**




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ARTICLE 29 DATA PROTECTION WORKING PARTY



**01037/12/EN
WP 196**

Opinion 05/2012 on Cloud Computing

Adopted July 1st 2012

This Working Party was set up under Article 29 of Directive 95/46/EC. It is an independent European advisory body on data protection and privacy. Its tasks are described in Article 30 of Directive 95/46/EC and Article 15 of Directive 2002/58/EC.
The secretariat is provided by Directorate C (Fundamental Rights and Union Citizenship) of the European Commission, Directorate General Justice, B-1049 Brussels, Belgium. Office No MC-59 02/013.
Website: http://ec.europa.eu/justice/data-protection/index_en.htm



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Cloud Contracting: Issues

- Due diligence -- security
- Contract formation and modification
- Term and termination
- Reservation of rights and confidentiality
- Warranties



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Cloud Contracting: Issues

- Service levels
- Data ownership
- Liability
- Assignment and change in control



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Cloud Contracting: Best Practices

- Shift



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Cloud Resources

www.cloudsecurityalliance.org

www.searchcloudsecurity.com

www.pcistandards.org

www.nist.gov

www.ftc.gov

www.duffonhospitalitylaw.com



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